

September 16, 2009

## POLICY RECOMMENDATION MOTIONS ADOPTED

### **Security Access Control – Motion:**

Entities will be required to authenticate users of individual health information using single factor authentication (Level 2 NIST); however, for users remotely accessing the information a two factor authentication (Level 3 NIST) is required.

An entity will be required use the following access control attributes to determine if a user (data requestor) is authorized to access requested information:

- Data Source;
- Entity of Requestor;
- Role of Requestor;
- Use of Data;
- Sensitivity of Data;
- Consent Directives of the Data Subject

An entity that acts as a data requestor will be required to execute the authorization process at the location agreed upon in the data use agreements governing that exchange.

**Motion to accept was approved. None opposed.**

### **Uses and Disclosures for Health Information Exchange – Motion:**

- Uses and disclosures of individual health information for transmitting through an electronic health information exchange initially are limited to 1) clinical treatment where a health care provider/individual relationship exists and 2) mandated public health reporting purposes.
- Other purposes for use and disclosure of individual health information for transmitting through an electronic health information exchange will be evaluated by the CalPSAB process.
  - The guidelines will be amended to allow for other purposes (such as care management, research, etc.) once recommendations are made by the Board and accepted by the Secretary. The Use and Disclosure purposes will be prioritized for evaluation by CalPSAB Committees in accordance with requirements to meet the meaningful uses for ARRA funding.
- The scope of the Use and Disclosures section for HIOs of the guidelines encompasses all electronic exchanges of individual health information. This scope applies to an independent health information organization, as well as to two separate health care organizations who exchange individual health information without the use of a third party organization.

- The Privacy Committee's Sensitive Individual Health Information Task Group will provide a recommendation on the definition of "sensitive individual health information", and how to address the use or disclosure of an individual's sensitive health information.

**Motion was approved. None opposed.**

**Patient Consent to Transmit Information through HIE – Motion:**

After much discussion, a motion was made to recommend the following:

1. An Opt Out policy be in place to transmit individual health information through an electronic health information exchange for the purposes of clinical treatment, i.e., where a treatment relationship exists between the provider and the patient.
2. A break-the-glass be provided for situations where a patient is not capable to make a choice if their information should be excluded from the exchange in clinical treatment situations.
3. An Opt In policy be obtained to transmit individual health information through an electronic health information exchange for all other purposes before the information may be exchanged electronically.
4. The Privacy Committee will provide a proposal after evaluating consent policy options for the electronic exchange of individual health information between the provider and the health plan for purposes of care management for the December 2009 CalPSAB meeting.
5. For entities already exchanging individual health information electronically, an implementation period (such as up to one year) should be allowed within which entities would be required to obtain the necessary HIEconsents.
6. This policy should be carefully monitored and amended as necessary, after careful review by the HIE and Legal Committees.
7. Disclosures required by law or authorized by the patient will not require consent.

**Motion was approved. Three members were opposed. CalOHII requested that dissenting opinions be provided if the opposing members so desired.**